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BOARD OF PATENT APPEALS
AND INTERFERENCES

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#28

In re application of : Gary R. Tucholski et al.
 Serial No. : 07/641,394
 Filed : January 15, 1991
 For : BATTERIES WITH TESTER LABEL

Hon. Commissioner of Patents and Trademarks
 Washington, D.C. 20231

Dear Sir:

STATUS INQUIRY

Counsel for Applicants Tucholski et al. have been conducting periodic status checks of the above captioned application. On November 5, 1993 it was discovered by counsel for Tucholski et al. that a Petition For Access To Application File (copy attached) had been filed in this case as Paper No. 26 (copy of File Cover Sheet attached). The petition was filed by Peter W. Peterson of Delio & Peterson, having a Certificate of Mailing dated September 22, 1993. The petition has a PTO Mail Room stamp of September 27, 1993 and a Group stamp "Received 93 Oct. 20 AM 9:05".

Neither counsel for Tucholski et al. nor the assignee of the application, Eveready Battery Company received notice or a copy of the petition, such as by service. Counsel is concerned that the delay in entering the petition in the 07/641,394 file (approximately 4 weeks) may be viewed or construed by the Patent and Trademark Office as a consent by Applicants for Delio & Peterson to access that file. Applicants do not consent to access to the file by petitioner, and intend on submitting a formal opposition thereto very shortly.

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Please advise the undersigned of the present status of the Petition For Access
To Application File, Paper No. 26. Applicants request that the Patent and Trademark Office
allow Applicants a reasonable time period to prepare and submit a formal opposition to the
petition.

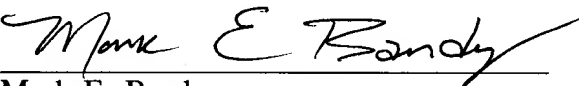
Respectfully submitted,

GARY R. TUCHOLSKI ET AL.

By: Price, Heneveld, Cooper,
Dewitt & Litton

November 15, 1993

Date



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